

RE-SUBMITTAL

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. FORM NO. 7-90

(See instructions on reverse)

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER	PREVIOUS REGULATORY ACTION NUMBER
	Z89-0121-01	90-0802-03R		90-0305-02 S

For use by Office of Administrative Law (OAL) only

1990 AUG -2 PM 3:17

OFFICE OF
ADMINISTRATIVE LAWENDORSED
APPROVED FOR FILING
SEP 04 1990

Office of Administrative Law

NOTICE

REGULATIONS

AGENCY

Department of Social Services

AGENCY FILE NUMBER (if any)

RDB # 1188-52

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input checked="" type="checkbox"/> Regulatory Action	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER	PUBLICATION DATE
	<input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)**1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S)** (Including title 26, if toxics-related)

SECTIONS AFFECTED	ADOPT
	AMEND
MPP TITLE(S)	Sections 30-753, 30-766 and 30-767
	REPEAL

2. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code, § 11346)	<input checked="" type="checkbox"/> Resubmittal	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)	<input type="checkbox"/> Emergency (Gov. Code, § 11346.1(b))
<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.			
<input type="checkbox"/> Print Only	<input type="checkbox"/> Other (specify)		

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45) Final Statement of Reasons; July 12, 1990 through July 27, 1990; Modified text Sections 10-200.221, 30-753, 30-766,

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

<input checked="" type="checkbox"/> Effective 30th day after filing with Secretary of State	<input type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> Effective other (Specify)
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5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
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6. CONTACT PERSON

Rosalie Clark, Chief, Regulations Development Bureau

TELEPHONE NUMBER

(916) 445-0313

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

8-1-90

TYPED NAME AND TITLE OF SIGNATORY

Linda S. McMahon, Director

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 7-90) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the agency name and agency file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN
REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

DELEGATED AUTHORITY ORDER

I hereby authorize and designate the following individuals as the agency contact persons who have authority, during the Office of Administrative Law review period, to make decisions and answer questions regarding regulations adopted by the Department of Social Services.

Rosalie P. Clark, Chief
Regulations Development Bureau

James Rhoads, Assistant Chief
Regulations Development Bureau

This designation shall be effective on 8-26-88, 1988 and shall remain in effect until superseded or cancelled.


Linda S. McMahon
Director

8-26-88
Date

Amend Section 30-753 to read:

30-753 SPECIAL DEFINITIONS

30-753

(a) (1) Administrative costs are those costs necessary for the proper and efficient administration of the county IHSS program as defined below. Activities considered administrative in nature include, but are not limited to:

- (A) Determine eligibility;
- (B) Conduct needs assessments;
- (C) Give information and referrals;
- (D) Establish case files;
- (E) Process Notices of Action;
- (F) Arrange for services;
- (G) Compute shares of cost;
- (H) Monitor and evaluate contractor performance;
- (I) Respond to inquiries;
- (J) Audit recipient and individual provider timesheets;
- (K) Enter case and payroll information into the CMIPS;
- (L) Screen potential providers and maintain a registry or list.

(2) Allocation means federal, state, and county monies which are identified for a county by the Department for the purchase of services in the IHSS program.

(b) (1) Base Allocation means all federal, state and county monies identified for counties by the Department for the purchase of services in the IHSS program, exclusive of any provider COLA allocation, but including recipient COLA.

107 (2) Base Rate means the mount of payment per unit of work before any premium is applied for overtime or related extraordinary payments.

(c) (d1) County Plan means the annual plan submitted to the State Department of Social Services specifying the method of IHSS delivery to meet program objectives, conditions, and fiscal limitations.

(d2) CRT or Cathode Ray Tube means a device commonly referred to as a terminal which is used to enter date into the IHSS payrolling system.

(d3) CRT County means a county in which one or more CRT's have been located allowing the county to enter its date directly into the payrolling system.

(d) (d1) Deeming means procedures by which the income and resources of certain relatives, living in the same household as the recipient, are determined to be available to the recipient for the purposes of establishing eligibility and share of cost.

(d2) Direct advance payments means a payment to be used for the purchase of authorized IHSS which is sent directly to the recipient in advance of the service actually being provided.

(e) (e1) Employee means the provider of IHSS under the individual delivery method as defined in Section 30-767.13.

(e2) Employer means the recipient of IHSS when such services are purchased under the individual delivery method as defined in Section 30-767.13.

(e3) Equity Value means a resource;s current market value after subtracting the value of any liens or encumbrances against the resources which are held by someone other than the recipient of his/her spouse.

(f) Essential services means:

(f1) Nonmedical personal services/

(f2) Paramedical services/

(f3) Protective supervision/

(f4) Snow removal/ when appropriate/

(f5) Meal preparation/

(f6) Meal cleanup when assistance with both meal preparation and the consumption of food is required/

(f) (Reserved)

(g) (#1) Gatekeeper Client means a person eligible for, but not placed in a skilled or intermediate care facility as a result of preadmission screening.

(h) (#1) Hours Worked means the time during which the provider is subject to the control of the recipient, and includes all the time the provider is required or permitted to work, exclusive of time spent by the provider traveling to and from work.

(#2) Housemate means a person who shares a living unit with a recipient. An able and available spouse of a live-in provider is not considered a housemate.

(i) (Reserved)

(j) (Reserved)

(k) (Reserved)

(l) (#1) Landlord/Tenant Living Arrangement means a shared living arrangement considered to exist when one housemate, the landlord, allows another, the tenant, to share housing facilities in return for a monetary or in-kind payment for the purpose of augmenting the landlord's income. A landlord/tenant arrangement is not considered to exist between a recipient and his/her live-in provider. Where housemates share living quarters for the purpose of sharing mortgage, rental, and other expenses, a landlord/tenant relationship does not exist, though one housemate may customarily collect the payment(s) of the other housemate(s) in order to pay mortgage/rental payments in a lump sum.

(#2) Licensed Health Care Professional means a person who is a physician, chiropractor, podiatrist or dentist as defined and authorized to practice in this state in accordance with the California Business and Professions Code.

(#3) Live-In Provider means a provider who is not related to the recipient and who lives in the recipient's home expressly for the purpose of providing IHSS-funded services.

(#4) A list means any informal or formal listing or registry of written name(s) of prospective In-Home Supportive Services providers maintained by the county agency, county social services staff, a contractor as defined under Welfare and Institutions Code Section 12302.1, or any public or private agency for purposes of referring the prospective providers for employment.

(m) (g) Minor means any person under the age of eighteen.

(n) (t) Net Nonexempt Income means income remaining after allowing all applicable income disregards in exemptions.

(o) No domestic services means

(1) All domestic services

(2) Heavy cleaning

(3) Related services except meal preparation and except meal cleanup where assistance with both meal preparation and consumption of food is required

(4) Transportation services

(5) Teaching and demonstration services

(6) Yard hazard abatement with the exception of snow removal

(o) (v1) Out-of-Home care facility means a housing unit other than the recipient's own home, as defined in (w2) (2) below. Medical out-of-home care facilities include acute care hospitals, skilled nursing facilities, and intermediate care facilities. Nonmedical out-of-home care facilities include community care facilities and homes of relatives which are exempt from licensure, as specified in Section 46-325.5, where recipients are certified to receive board and care payment level from SSP.

(w2) Own Home means the place in which an individual chooses to reside. An individual's "own home" does not include an acute care hospital, skilled nursing facility, intermediate care facility, community care facility, or a board and care facility. A person receiving an SSI/SSP payment for a nonmedical out-of-home living arrangement is not considered to be living in his/her own home.

(p) (x1) Paper County means a county which sends its data in paper document form for entry into the payrolling system to the IHSS payrolling contractor.

(y2) Payment Period means the time period for which wages are paid. There are two payment periods per month corresponding to the first of the month through the fifteenth of the month and the sixteenth of the month through the end of the month.

(z3) Payrolling System means a service contracted for by the state with a vendor to calculate paychecks to individual providers of IHSS; to withhold the appropriate employee taxes from the provider's wages; to calculate the employer's taxes; and to prepare and file the appropriate tax return.

(z4) Personal Attendant means a provider who is employed by the recipient and, as defined by 29 CFR 552.6, who spends at least eighty percent of this/her time in the recipient's employ performing the following services:

- (zA) Preparation of meals, as provided in Section 30-757.131.
- (zB) Meal Clean-up, as provided in Section 30-757.132.
- (zC) Planning of menus, as provided in Section 30-757.133.
- (zD) Consumption of food, as provided in Section 30-757.14(c).
- (zE) Routine bed baths, as provided in Section 30-757.14(d).
- (zF) Bathing, oral hygiene and grooming, as provided in Section 30-757.14(e).
- (zG) Dressing, as provided in Section 30-757.14(f).
- (zH) Protective supervision, as provided in Section 30-757.17.

(z5) Preadmission Screening means personal assessments of an applicant for placement in a skilled or intermediate care facility, prior to admission to determine the individual's ability to remain in the community with the support of community-based services.

(z6) Provider Cost-of-Living Adjustment (COLA) means all federal, state and county monies identified for counties by SDSS for the payment of wage and/or benefit increases for service providers in the IHSS program.

(q) (Reserved)

(r) (d) Recipient means a person receiving IHSS, including applicants for IHSS when clearly implied by the context of the regulations.

(s) (~~§§1~~) Severely Impaired Individual means a recipient with a total assessed need, as specified in Section 30-763.26, for 20 hours or more per week of service in one or more of the following areas:

- (1A) Any nonmedical personal service listed in Section 30-757.14
- (2B) Preparation of meals and meal cleanup when assistance with consumption of food is required.
- (3C) Paramedical services.

(ff2) Shared Living Arrangement means a situation in which one or more recipients reside in the same living unit with one or more persons. A shared living arrangement does not exist if a recipient is residing only with his/her able and available spouse.

(ff3) Share of cost means an individual's net non-exempt income in excess of the applicable SSI/SSP benefit level which must be paid toward the cost of IHSS authorized by the county.

(ff4) Spouse means a member of a married couple or a person considered to be a member of a married couple for SSI/SSP purposes.

(ff5) SSI/SSP means the Supplemental Security Income and State Supplementary Program administered by the Social Security Administration of the United States Department of Health and Human Services in California.

(6) State Allocation Plan means that process whereby individual county IHSS program allocations are developed in a manner consistent with a) Welfare and Institutions Code Sections 10102 and 12300 et seq., and b) funding levels appropriated and any control provision contained in the Annual Budget Act.

(7) State-mandated program cost means those county costs incurred for the provision of IHSS to recipients, as specified in Section 30-757.1 et seq., in compliance with a state approved county plan. Costs caused by factors beyond county control such as caseload growth and increased hours of service based on individually assessed need, shall also be considered state-mandated.

(ff8) Substantial Gainful Activity means work activity that is considered to be substantial gainful activity under the applicable regulations of the Social Security Administration, 20 CFR 416.932 through 416.934.

Substantial work activity involves the performance of significant physical or mental duties, or a combination of both, productive in nature. Gainful work activity is activity for remuneration of profit, or intended for profit, whether or not profit is realized, to the individual performing it or to the persons, if any, for whom it is performed, or of a nature generally performed for remuneration or profit.

(KK9) Substitute Payee means an individual who acts as an agent for the recipient.

(t) (11) Turnaround Timesheet means a three-part document issued by the state consisting of the paycheck, the statement of earnings, and the timesheet to be submitted for the next pay period.

(u) (Reserved)

(v) (Reserved)

(w) (Reserved)

(x) (Reserved)

(y) (Reserved)

(z) (Reserved)

Authority Cited: Section 10553, Welfare and Institutions Code.

Reference: Section 10554, 12301, 12306, 12308, and 13002, Welfare and Institutions Code.

Amend Section 30-766 to read:

30-766 PROGRAM CONTROLS

30-766

.1 Each county welfare department shall develop and submit a county plan to SDSS no later than 30 days following receipt of its allocation, which specifies the means by which IHSS will be provided in order to meet the objectives and conditions of the program within its allocation.

.11 The plan shall be submitted ~~as~~ to SDSS ~~for~~ and shall ~~include at least~~ be based upon relevant information, as specified in Welfare and Institutions Code Section 12301, including, but not limited to the information specified below:

.111 Projected caseload, hours paid, and costs per month/quarter by mode and demographic information required by Welfare and Institutions Code Section 12391.

HANDBOOK BEGINS HERE

1ay Information on caseloads, including the number of persons who receive 20 or more hours of personal services, between 18 and 20 hours of personal services, the number of persons receiving preventive supervision, other special characteristics of the population and the number of cases per age of recipient;

1by Expected impact on the institutional supportive services program from any new or expanded programs or changed health characteristics of the population, including, but not limited to the impact of all of the following;

1iy The new linkages program authorized by Chapter 1637 of the Statutes of 1984;

1zy Multipurpose senior service centers;

1zy Adult day health care centers;

1ay Diagnosically related groups and early hospital discharges;

18) Preadmission screening

18) Reported adult abuse

(d.112) Section 12301 of the Welfare and Institutions Code states:

The county shall also report which methods of outreach are being utilized by the county regarding the availability of services under this article.

HANDBOOK ENDS HERE

- .12 County plans and amendments shall be effective upon submission.
- .13 SDSS shall review each county plan for compliance with Welfare and Institutions Code Section 12300, et seq., departmental regulations, and when appropriate, issue departmental approval.
 - .131 SDSS, when appropriate, shall adjust funding levels contained in the plan, as a condition of approval.
 - .132 A county plan which includes IHSS administrative costs shall not be issued departmental approval.
 - .133 If, after review, SDSS determines that a county plan is not in compliance, the Department shall require the county to amend its plan.
 - .134 SDSS shall develop a county plan for counties which have not submitted plans within the required time frame, based on SDSS's estimate for those counties. Such plans shall be effective upon written notification to the county.
- .134 In the event that funds are available for reallocation, special consideration shall be given to those counties which submit their county plans by the due date.
 - .1341 SDSS shall be permitted to reallocate funds from counties which are late based on SDSS's estimate for those counties.

.145 Each county shall monitor its expenditures monthly. Upon discovery by either SDSS or the county that anticipated expenditures will exceed the amount of the county's base allocation, the county shall immediately submit to SDSS for approval an amended plan ~~including~~ including the information specified in 118 below.

118 If a county's IHS program base allocation is insufficient to meet projected service needs, the county shall specify within its plan:

1181 Whether it intends to provide additional county funding; or

1182 Whether it chooses to utilize administrative actions to reduce the rate of expenditures.

1183 Administrative actions include, but are not limited to the following:

119 Change in mode of service delivery;

120 Reduction in hourly rate of payment provided that such reduction does not cause the hourly rate to decrease below an amount equal to the current minimum wage plus the cumulative mandatory provider costs, beginning with FY 1983/84.

.16 Counties shall not reduce authorized services or hours of service to recipients in order to remain within their allocation.

.17 All state-mandated program costs, after the required county contribution, shall be eligible for reimbursement from state social service funds. If appropriated funds are insufficient to reimburse counties for all state-mandated costs, the state shall fully reimburse the counties for all state-mandated program costs, less the required county contribution.

.18 The portion of county expenditures which, after the county contribution, exceeds the allocation, shall not be eligible for reimbursement from state social service funds if such deficit is caused by:

.181 Noncompliance with the requirements of the state-approved county plan or State allocation plan; or

.182 Non-state-mandated costs; or

.183 IHSS administrative costs.

HANDBOOK STARTS HERE

(a) Some examples of situations where reimbursement would not be made are:

- (1) A county chooses to give a wage/benefit increase to IHSS providers which is higher than that provided in the Budget Act; or
- (2) A county chooses to expand its use of a more expensive service delivery mode beyond the level of caseload and hours growth for each mode that is built into the Budget Act; or
- (3) A county chooses to enter into a third party contract at an hourly rate higher than the maximum established for that county; or
- (4) A county chooses to shift to a more expensive mode without providing for concomitant offsetting savings in other areas, and causing a cost overrun.

HANDBOOK ENDS HERE

Authority Cited: Section 10553, Welfare and Institutions Code.

Reference: Section 10102, 12301, 12302, 12306, 12308, 13002, Welfare and Institutions Code, and Chapter 93, Statutes of 1989 (Budget Act of 1989).

Amend Section 30-767 to read:

30-767 SERVICE DELIVERY METHODS

30-767

.1 The county shall arrange for the provision of IHSS through one or more of the methods specified below in accordance with an approved county plan:

HANDBOOK BEGINS HERE

Counties may choose modes of delivery that best meet the needs of their recipient population in their county demographic situation (WIC 12302). However, state reimbursement can be available only within the constraints imposed by the annual budget act (WIC 12300) and state allocation plan (WIC 10102), all of which must be reflected in state-approved individual county plans. Counties which exceed the constraints run the risk of not receiving full reimbursement if the cost overrun was due to non-state mandated costs, i.e., costs within county control, or more expensive modes used beyond amounts approved in an individual county plan.

HANDBOOK ENDS HERE

Authority Cited: Section 10553, Welfare and Institutions Code.

Reference: Section 12302, Welfare and Institutions Code.

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

FILED

In the office of the Secretary of State
of the State of California

SEF 04 1990

AL 420 o'clock PM

MARCH FONG EU, Secretary of State

By Michael L. Williams

Director, Department of Social Services

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the City of Sacramento, State of California.

Submitting Agency: Social Services

OAL File No: 90-0802-03


LINDA BREWER
DIRECTOR

09/04/90

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 7-90)

(See instructions on reverse)

For use by Secretary of State only

CAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER	PREVIOUS REGULATORY ACTION NUMBER
		90-0814-07N		

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1990 AUG 14 PM 3:54

OFFICE OF
ADMINISTRATIVE LAWENDORSED
APPROVED FOR FILING
SEP 13 1990

Office of Administrative Law

REGULATIONS

NOTICE

REGULATIONS

AGENCY

State Department of Social Services

AGENCY FILE NUMBER (if any)

RDB #0590-18

FILED
In the office of the Secretary of State
of the State of California

SEP 13 1990

At 3:35 o'clock P.M.
MARCH FONG EU, Secretary of State
by Michael L. Williams
Secretary of State

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER
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SECTIONS AFFECTED	ADOPT			
	None			
AMEND (See list attached)				
TITLE(S)	REPEAL			
MPP	None			

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<input type="checkbox"/> Regular Rulemaking (Gov. Code, § 11346)	<input type="checkbox"/> Resubmittal	<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)	<input type="checkbox"/> Emergency (Gov. Code, § 11346.1(b))
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Not applicable

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)			
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5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

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<input type="checkbox"/> Other (Specify)		

6. CONTACT PERSON	TELEPHONE NUMBER
Rosalie Clark, Chief, Regulations Development Bureau	(916) 445-0313

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

8-3-90

TYPED NAME AND TITLE OF SIGNATORY

Linda S. McMahon, Director

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 7-90) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

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Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

DELEGATED AUTHORITY ORDER

I hereby authorize and designate the following individuals as the agency contact persons who have authority, during the Office of Administrative Law review period, to make decisions and answer questions regarding regulations adopted by the Department of Social Services.

Rosalie P. Clark, Chief
Regulations Development Bureau

James Rhoads, Assistant Chief
Regulations Development Bureau

This designation shall be effective on 8-26-88, 1988 and shall remain in effect until superseded or cancelled.



Linda S. McMahon
Director

8-26-88
Date

B. SUBMISSION OF REGULATIONS

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S):

SECTIONS AFFECTED:

Title(s): MPP

Sections adopted: None

Sections amended: 22-001a.(3), a.(3)(A), a.(4), and a.(5); 22-001c.(2)(A), .c.(2)(C), and c.(4); 22-001f.(1)(A), f.(1)(A) 1. through 4., f.(1)(D), and f.(2); and 22-001p.(2); 22-003.121, .122(a), and .13; 22-004.22, .221, .41, and .5; 22-005.3; 22-009.11; 22-010.2, .21, .22, and .23; 22-015.1; 22-017.2; 22-021.1 and .17; 22-022.1, .522, .71, .73, .731, .732, .75, and .8; 22-023.122(b), .124(a) and (b), .241, .242, and .243; 22-024.1, .5, .51, and .57; 22-025.2; 22-026.2, .31, and .311; 22-027.124 and .125; 22-028.2 and .5; 22-043.1 and .11; 22-045.12, .21, and .3; 22-047.1 and .2; 22-049.1, .12, .14, .15, .151, .152, .16, .52, .521, .522, .523, .53, .531, .532, .532(b), .6, .61, .612, .612(b), .612(c) (4), .82, and .9; 22-050.1, .11, .22, .23, .3, .4, .41, .42, and .43; 22-051.5; 22-053.112, .14, .142, .15, .151, .21, .211, and .212(c); 22-054.33 through .37 and .4; 22-055.1, .2, .21, .22, and .3; 22-059.11 and .12; 22-061.1, .2, .22, .222, and .4; 22-063.1; 22-064.1; 22-065.11 and .9

Sections repealed: None

Renumber and Amend Section 22-001 to read:

22-001 DEFINITIONS

22-001

(a) The following definitions shall apply wherever the terms are used throughout Division 22.

a. (1) Adequate Notice - (Continued)
(2) Administrative Law Judge - (Continued)

HANDBOOK BEGINS HERE

The Administrative Law Judge shall prepare fair, impartial and independent ~~proposed~~ decisions.

HANDBOOK ENDS HERE

(3) Aid - For purposes of this Division "aid" includes all public ~~assistance~~ social services programs subject to a state hearing.

(A) Such public social services programs include, but are not limited to, Aid to Families with Dependent Children (AFDC), the State administered programs for recipients of SSI/SSP (Division 46), Refugee Resettlement Program (RRP), the Cuban/Haitian Entrant Program (CHEP), the Food Stamp Program (FS), the California Medical Assistance Program (Medi-Cal), the Transitional Child Care Program (TCC), the Social Services Programs described in Division 30 of the Manual of Policies and Procedures (MPP), Women, Infant and Children Program (WIC), Aid for the Adoption of Children Program (AAC), Adoption Assistance Program (AAP), and Multipurpose Senior Services Program (MSSP).

(4) Alternate Decision - A decision issued by the Director which differs from the ~~Administrative Law Judge's~~ proposed decision. See Section 22-062.

(5) Authorized Representative - An individual or organization that has been authorized by the claimant or designated by the ~~Administrative Law Judge~~ or Department pursuant to Sections 22-010 and 22-101 to act for the claimant in any and all aspects of the state hearing or administrative disqualification hearing. (Continued)

b. Reserved

c. (§1) Chief Administrative Law Judge - (Continued)

(72) Claimant - The person who has requested a state hearing and is or has been either:

(A) An applicant for or recipient of aid, as defined in Section 22-001a. (3) ~~above~~; (Continued)

(C) A representative of the estate of a deceased applicant or recipient (see Sections 22-004.4 and .5). (Continued)

(F) The sponsor of an alien, see MPP Sections 43-119, 44-353, and 63-804.1 (Continued)

(§3) Compliance related issues - (Continued)

(§4) County or CWD - For purposes of this division, "county" or "CWD" generally refers to the county welfare department. The term "county welfare department" is used in Sections 22-001(§c.)(127), 22-003 and 22-023 to mean the welfare department in the county in which the recipient resides or the county that has taken the action or inaction with which the recipient is dissatisfied. Any references to "county" or "CWD" may also refer to any state department or contractor whose actions may be subject to a state hearing.

(105) County Action - (Continued)

(116) County Hearing Officer - (Continued)

(127) County or CWD Representative - (Continued)

d. (13) Days - (Continued)

(142) Decision of the Director - (Continued)

(153) Department - (Continued)

(164) Director - (Continued)

e. Reserved

f. (17) Filing Date

(A) All written requests for hearings shall be date stamped by the ~~Office of the Chief~~ Administrative Law Judge Adjudications Division or the CWD on the day the request is received. Unless the evidence indicates otherwise, the filing date of the claimant's written request for a state hearing shall be determined as follows:

1. If the request is mailed to the ~~Office of the Chief~~ Administrative Law Judge Adjudications Division, or to the CWD, the postmark date of the envelope;
2. If the request is delivered by hand to the ~~Office of the Chief~~ Administrative Law Judge Adjudications Division or to the CWD, the date stamped on the request for hearing;
3. If the date cannot be determined by the methods described above, three days before the request was stamped "received" by the ~~Office of the Chief~~ Administrative Law Judge Adjudications Division or the CWD;
4. If the date cannot be determined by (1.) or (2.) the date the request was signed.
(Continued)

(D) If a written request is filed erroneously with the ~~Office of the Chief~~ Administrative Law Judge Adjudications Division or with a CWD in a county in which the claimant does not reside and in which the CWD has not taken any action or inaction with which the claimant is dissatisfied, the filing date shall be determined in the same manner as set forth above in Subsection (A).

(182) Final Decision - The decision prepared and adopted by the ~~Administrative Law Judge~~ resolving a state hearing case and which shall be treated, for all purposes, as the decision of the Director.

g. Reserved

h. (19) Holiday - (Continued)

i. Reserved
j. Reserved
k. Reserved
l. Reserved
m. Reserved
n. Reserved
o. Reserved
p. (201) Preliminary Hearing - (Continued)

(21) Proposed Decision - The decision prepared by the ~~Administrative Law~~ Judge concerning a state hearing case which he/she recommends to the Director for adoption. (Continued)

q. Reserved
r. Reserved
s. (221) State Hearing - (Continued)
t. (231) Timely Notice - (Continued)
u. Reserved
v. Reserved
w. Reserved
x. Reserved
y. Reserved
z. Reserved

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-003.121, .122(a), and .13 to read:

22-003 RIGHT TO A STATE HEARING

22-003

.1 (Continued)

.12 (Continued)

.121 In the event of such automatic grant adjustment, the ~~Office of the Chief Administrative Law Judge~~ Adjudications Division shall promptly review the requests for a state hearing to determine whether the basis for a request is the automatic grant adjustment. See Section 22-054.

.122 (Continued)

(a) If the ~~Administrative Law Judge~~ determines that the subject of the hearing was the wisdom or validity of such a law change, the request shall be permitted to be dismissed pursuant to Section 22-054.31.

.13 ~~In the Food Stamp Program~~ The placement of a household on an alternate issuance system and the length of time the household is on this system shall not be subject to the ~~State~~ hearing process. See Section 63-605.326. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-004.22, .221, .41, and .5 to read:

22-004 REQUEST FOR A STATE HEARING (Continued)

22-004

.2 (Continued)

.22 When a written request for a state hearing is received by the CWD, a copy shall be forwarded to the Office of the Chief Administrative Law Judge Adjudications Division in Sacramento no later than three working days after its receipt.

.221 If the request for hearing concerns an action which is subject to the adequate notice provisions, a copy of the applicable Notice of Action, if available, shall be sent with the request. (Continued)

22-004 REQUEST FOR A STATE HEARING (Continued)

22-004

.4 (Continued)

.41 The legal representative of a claimant's estate is the executor/executrix or administrator/administratrix of the estate. If there is no estate to be probated, the representative may be a relative (*i.e.g.*, parents, spouse, children, siblings, grandparents or grandchildren of the deceased claimant).

.5 If the prospective claimant dies before filing a request for a state hearing, a request may only be filed by or on behalf of the representative of the claimant's estate as by those individuals specified in Section 22-004.41 above.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Section 22-005.3 to read:

22-005 REQUEST FOR REVIEW (Continued)

22-005

.3 The time limitations involved in requesting a state hearing (see Sections 22-009 and 22-022) shall not be suspended during the pendency of a request for review. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Section 22-009.11 to read:

22-009 TIME LIMIT ON REQUEST FOR A STATE HEARING

22-009

.1 (Continued)

.11 If the claimant received adequate notice of the action (see Section 22-001(a)(1)), the date of the action shall be the date on which the notice was mailed to the claimant. In all other cases, the date of the action or inaction shall be considered to be the date the action was discovered. The date of discovery is the date the claimant knew, or should have known, of the action. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-010.2, .21, .22, and .23 to read:

22-010 AUTHORIZED REPRESENTATIVE (Continued)

22-010

- .2 If the claimant has not authorized the representative in writing and is not present at the hearing, the person may be recognized as the authorized representative if he/she is an attorney or if, at the hearing, the person swears or affirms under penalty of perjury that the claimant has so authorized him/her to act as the claimant's authorized representative, and the ~~Administrative~~ Law ~~Judge~~ further determines the person is so authorized.
- .21 The ~~Administrative~~ Law ~~Judge~~ may make the determination by contacting a collateral source (e.g., the claimant).
- .22 In all such cases a written authorization shall be submitted within five days from the hearing unless this time period is extended by the ~~Administrative~~ Law ~~Judge~~. (Continued)
- .23 If, at the hearing, the person cannot swear or affirm under penalty that the claimant has authorized him/her to act as the claimant's authorized representative because the claimant is incompetent, in a comatose condition, suffering from amnesia or a similar condition, the hearing may proceed at the ~~Administrative~~ Law ~~Judge~~'s discretion if the person is a relative, or a person who has knowledge of the claimant's circumstances and who completed and signed the Statement of Facts on the claimant's behalf. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Section 22-015.1 to read:

22-015 COUNTY WELFARE RESPONSIBILITY

22-015

.1 Each county shall furnish to the ~~Office of the Chief Administrative Law Judge Adjudications Division~~ the name of an individual who, in coordination with the Chief Administrative Law Judge, is responsible for discharging the requirements of Sections 22-015 through 22-028. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Section 22-017.2 to read:

22-017 EXPLANATION OF RIGHT TO STATE HEARING
(Continued)

22-017

.2 The county shall also provide the explanation required in Sections 22-017.11 and .111 ~~and~~ when a claimant makes an informal complaint with the county agency.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-021.1 and .17 to read:

22-021 ADEQUATE NOTICE

22-021

.1 Except as provided in Section 22-021.2, the county shall give the claimant adequate notice as defined in Section 22-001(a). (1) in the following instances:
(Continued)

.17 When the county takes action regarding compliance related issues resulting from state hearing decisions (see Sections 22-001ac. (§3) and 22-028). (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-022.1, .522, .71, .73, .731, .732, .75, and .8 to read:

22-022 TIMELY NOTICE - AID PENDING HEARING

22-022

.1 Except as provided below, in all instances where the county action would result in a discontinuance, termination, suspension, cancellation, or decrease of aid, or in a change in the manner or form of payment to a protective or vendor payment, the county shall mail timely and adequate notice as defined in Sections 22-001(a)(1) and 22-001(f)(2) to the persons affected. (Continued)

22-022 TIMELY NOTICE - AID PENDING HEARING (Continued)

22-022

.5 (Continued)

.52 (Continued)

.522 In the Food Stamp Program if a recipient fails to file a request before the effective date of the proposed action, aid pending is appropriate provided the recipient establishes good cause with the ~~Chief~~ Administrative Law Judge Adjudications Division or the ~~Administrative~~ Law Judge (see Section 63-804.613). (Continued)

22-022 TIMELY NOTICE - AID PENDING HEARING (Continued)

22-022

.7 Aid pending shall cease when:

.71 The claimant withdraws or abandons the request for a state hearing (see Section 22-054.12). If the withdrawal is conditional, the county shall provide aid pending retroactively and prospectively if the request for a hearing is subsequently reinstated (see Section 22-054.211), provided that the claimant has complied with conditions set forth in the agreement accompanying the conditional withdrawal. (Continued)

.72 (Continued)

.73 The ~~Administrative~~ Law Judge determines, based on the record of the state hearing, that the issue involved in such hearing is one of law or change in law and not one of incorrect application of law.

.731 If the request for hearing involves multiple issues, the ~~Administrative~~ Law ~~Judge~~ shall determine that as to certain issues aid pending is appropriate while as to other issues aid pending is not appropriate. In such cases, aid may be reduced to the extent aid pending is not appropriate.

.732 If the matter is rescheduled for further hearing as specified in Section 22-062.13, the aid pending determination made by the ~~Administrative~~ Law ~~Judge~~ at the original hearing shall be considered void. Aid shall be retroactively reinstated and continued in the amount the claimant would have been paid if the proposed action were not to be taken, provided the claimant does not voluntarily and knowingly waive aid.

.74 (Continued)

.75 The claimant is granted a postponement of the hearing by the ~~Administrative~~ Law ~~Judge~~ at the hearing for a reason that does not constitute good cause as specified in Section 22-053.1. (Continued)

22-022 TIMELY NOTICE - AID PENDING A HEARING (Continued) 22-022

.8 After the hearing, and within ten ~~calendar~~ days from receipt of the aid paid pending decision, the claimant or the county may submit a written request to the ~~Office of the Chief~~ Administrative Law Judge Adjudications Division for reconsideration of the aid paid pending decision.
(Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-023.122(b), .124(a) and (b), .241, .242, and .243 to read:

22-023 COUNTY WELFARE AGENCY RESPONSIBILITY
PRIOR TO THE STATE HEARING

22-023

.1 (Continued)

.12 (Continued)

.122 (Continued)

(b) The CWD is notified by the Office of the ~~Chief~~ Administrative ~~Law Judge~~ Adjudications Division that it has received a written request for a state hearing. (Continued)

.123 (Continued)

.124 Misdirected Requests

(a) In the event that a written hearing request is filed erroneously with the ~~Office of the Chief~~ Administrative ~~Law Judge~~ Adjudications Division, rather than with the CWD, ~~they shall forward~~ such requests shall be forwarded to the respective county.

(b) For requests filed erroneously in a county in which the claimant does not reside, and in which the CWD has not taken any action or inaction with which the claimant is dissatisfied, these requests shall be forwarded to the Department. The Department shall forward such requests to the proper county as defined in Section 22-001(a)(c)(g4). (Continued)

22-023 COUNTY WELFARE AGENCY RESPONSIBILITY
PRIOR TO THE STATE HEARING (Continued)

22-023

.2 (Continued)

.24 (Continued)

- .241 The county representative shall notify the Office of the Chief Administrative Law Judge Adjudications Division if the claimant has requested an interpreter or home hearing.
- .242 The county representative shall report without delay to the Chief Administrative Law Judge Adjudications Division any changes in the claimant's address or any other circumstances which might affect the necessity for or conduct of the hearing. (Continued)
- .243 In the Food Stamp Program if a household requests a state hearing and informs the county that the household expects to leave the State prior to a normally scheduled hearing date, the county representative shall inform the Office of the Chief Administrative Law Judge Adjudications Division so that a hearing date may be scheduled and a decision rendered on an expedited basis. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-024.1, .5, .51, and .57 to read:

22-024 PRELIMINARY HEARING PROCEDURE

22-024

.1 The provisions for preliminary hearings set forth herein shall only be utilized by the CWD upon prior written approval of the Chief Administrative Law Judge Adjudications Division. (Continued)

22-024 PRELIMINARY HEARING PROCEDURE (Continued)

22-024

.5 With the approval of the Chief Administrative Law Judge Adjudications Division, the county shall provide preliminary hearings in accordance with the following procedures:

.51 A preliminary hearing shall be provided by the CWD to the claimant upon notification by the Chief Administrative Law Judge Adjudications Division that a request for a state hearing has been filed by the claimant. (Continued)

.57 The claimant, the authorized representative, or the county may request that the Chief Administrative Law Judge Adjudications Division or a designee issue a subpoena duces tecum requiring attendance and/or the production of documents, at the preliminary hearing (see Sections 22-051.2 and 22-052).

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Section 22-025.2 to read:

22-025 DISMISSAL OF A PRELIMINARY HEARING
(Continued)

22-025

.2 The CWD shall immediately notify the ~~Chief~~ Administrative Law Judge Adjudications Division upon dismissing a preliminary hearing on any of the grounds specified in Section 22-025.1 above, and the county shall immediately implement its proposed action.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-026.2, .31, and .311 to read:

22-026 PROCEDURE AFTER THE PRELIMINARY HEARING
(Continued)

22-026

- .2 The county shall promptly supply a copy of the written decision to the claimant and to the ~~Chief~~ Administrative Law Judge Adjudications Division.
- .3 (Continued)
 - .31 Notice of such determination, including, if the claimant desires to withdraw his/her request, a statement to that effect signed by the claimant or the authorized representative, shall be forwarded to the ~~Chief~~ Administrative Law Judge Adjudications Division with a copy of the written memorandum decision.
 - .311 If time limitations prevent the mailing of such notification and decision, the material shall be presented to the ~~Administrative~~ Law Judge at the state hearing for inclusion in the state hearing record. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-027.124 and .125 to read:

22-027 HEARING NOT HELD IN COUNTY RESPONSIBLE FOR AID 22-027

.1 (Continued)

.12 (Continued)

.124 The position statement and pertinent documents shall be mailed at least five days prior to the hearing to the claimant, the authorized representative, and to the place of the hearing with instructions that the statement and attachments be presented to the ~~Administrative~~ Law ~~Judge~~ at the time of the hearing.

.125 If the county in which the hearing is held does not receive the position statement and attachments from the county of responsibility prior to the hearing, it shall contact the responsible county concerning such position statement and shall attend the hearing on the responsible county's behalf to provide information to the ~~Administrative~~ Law ~~Judge~~.
(Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-028.2 and .5 to read:

22-028 COMPLIANCE WITH STATE HEARING DECISIONS
(Continued)

22-028

.2 If the decision of the Director is wholly or partially in favor of the claimant, the county shall, within 30 days of receipt of the decision, submit a compliance report, on a form approved by the Department, to the Office of Administrative Law Judge Adjudications Division. (Continued)

22-028 COMPLIANCE WITH STATE HEARING DECISIONS
(Continued)

22-028

.5 The claimant shall be permitted to request a new state hearing concerning his/her dissatisfaction with compliance related issues. See Section 22-001(a)(3). (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-043.1 and .11 to read:

22-043 ACKNOWLEDGEMENT OF REQUEST FOR A STATE HEARING 22-043

.1 The Office of the Chief Administrative Law Judge
Adjudications Division shall mail to the claimant
acknowledgement in writing of all requests for state
hearings.

.11 Such acknowledgement shall also be sent to the county
if not in receipt of the county did not receive the
original request.

Authority Cited: Sections 10553 and 10554, Welfare and
Institutions Code.

Reference: Sections 10553 and 10554, Welfare and
Institutions Code.

Amend Sections 22-045.12, .21 and .3 to read:

22-045 SETTING THE HEARING

22-045

.1 (Continued)

.12 The Office of the Chief Administrative Law Judge Adjudications Division may request verification from the claimant to support the reason why he/she cannot attend the hearing at the hearing location, and shall deny a request for a different hearing location in the absence of such requested verification.

.2 (Continued)

.21 In the Food Stamp Program, the Chief Administrative Law Judge Adjudications Division shall expedite the scheduling of hearings requested by households who expect to leave the State. See Section 22-023.243.

.3 The Office of the Chief Administrative Law Judge Adjudications Division shall mail or deliver to the claimant and the county a written notice of the time and place of the hearing not less than ten days prior to the hearing.
(Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-047.1 and .2 to read:

22-047 GROUP HEARINGS

22-047

- .1 A group of claimants with a common complaint may request that the Chief Administrative Law Judge Adjudications Division establish a group hearing.
- .2 The Chief Administrative Law Judge Adjudications Division may schedule a group hearing when in a series of individual requests for a state hearing the sole issue set forth in the request is one involving state or federal law or changes in state or federal law. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-049.1, .12, .14, .15, .151, .152, .16, .52, .521, .522, .523, .53, .531, .532, .532(b), .6, .61, .612, .612(b), .612(c)(4), .82 and .9 to read:

22-049 THE HEARING -- GENERAL RULES AND PROCEDURES

22-049

- .1 Attendance at the hearing is ordinarily limited to the claimant, authorized representative (as defined in Section 22-001.(a).(5)), county representative, legal counsel, authorized interpreter, and witnesses relevant to the issue. Other persons may attend the hearing if the claimant agrees to or requests their presence and the ~~Administrative~~ Law ~~Judge~~ determines that their presence will not be adverse to the hearing. (Continued)
 - .11 (Continued)
 - .12 The ~~Administrative~~ Law ~~Judge~~ shall be permitted to exclude a witness during the testimony of other witnesses. (Continued)
 - .13 (Continued)
 - .14 The ~~Administrative~~ Law ~~Judge~~ shall have the authority to exclude persons who are disruptive of the hearing.
 - .15 In the Food Stamp Program if the claimant is contesting an Employment Service Agency (ESA) determination of failure without good cause to comply with the work registration/job search requirements set forth in Section 63-407.4, the ESA shall participate in the hearing solely through the submission of ESA documents unless the Hearing official Administrative Law Judge determines additional ESA involvement is required. Additional ESA participation shall be required if:
 - .151 The Hearing official Administrative Law Judge determines that the documents submitted by ESA are not sufficient, or
 - .152 The claimant requests the right to confront an ESA representative, and the Hearing official Administrative Law Judge determines fairness requires that the claimant be given an opportunity to confront an ESA representative.
 - .16 If the Hearing official Administrative Law Judge determines that additional ESA participation in the hearing is necessary the Hearing official Administrative Law Judge shall: (Continued)

.5 (Continued)

- .52 If the claimant contends that he/she is not adequately prepared to discuss the issues because he/she did not receive adequate notice required by Section 22-021.1, this issue shall be resolved by the ~~Administrative~~ Law ~~Judge~~ at the hearing.
- .521 If the ~~Administrative~~ Law ~~Judge~~ determines that adequate notice was provided, the claimant shall agree to discuss the substantive issue or issues or the case will be dismissed.
- .522 If the ~~Administrative~~ Law ~~Judge~~ determines that adequate notice was not provided, the case shall be postponed unless the claimant waives the adequate notice requirement for purposes of proceeding with the hearing, and agrees to discuss the substantive issue or issues at the hearing.
- .523 If the notice was not adequate and involved a discontinuance, termination or reduction of aid, other than those referred to in Sections 22-022.1 through .14 aid shall be reinstated retroactively and the provisions of Section 22-022.5 shall apply.
- .53 In cases in which a jurisdictional issue is raised, either by one of the parties or by the ~~Administrative~~ Law ~~Judge~~, the parties must be prepared to submit evidence on the substantive issues except as provided in Section 22-049.532 ~~below~~.
- .531 No determination of the timeliness of the hearing request or of any other jurisdictional issue will ordinarily be made at the hearing. The request will be dismissed by a written decision if the ~~Administrative~~ Law ~~Judge~~ determines that jurisdiction does not exist, e.g., request untimely or no subject matter jurisdiction.

.532 If, prior to or at the hearing, both parties agree to discuss only the jurisdictional issue, the parties need not submit evidence on the substantive issues and the ~~Administrative~~ Law ~~Judge~~ shall take evidence only on the jurisdictional issue. Within ten days from the date of the hearing, the ~~Administrative~~ Law ~~Judge~~ shall: (Continued)

(b) Inform the parties that an additional hearing will be held on the substantive issues, and provide the parties a minimum of ten days in which to prepare on the substantive issues unless the time is waived by both parties. In this case, the ~~Administrative~~ Law ~~Judge's~~ proposed decision will address both the jurisdictional and substantive issues.

22-049 THE HEARING - GENERAL RULES AND PROCEDURES
(Continued)

22-049

.6 An interpreter shall be provided by the state if, prior to the hearing, a party requests an interpreter or if at the hearing, the ~~Administrative~~ Law ~~Judge~~ determines that an interpreter is necessary.

.61 When the state hearing is to be held with the assistance of an interpreter, the ~~Administrative~~ Law ~~Judge~~ shall determine if the interpreter has been certified by the Department. (Continued)

.612 If the interpreter has not been certified, the ~~Administrative~~ Law ~~Judge~~ shall:

(a) (Continued)

(b) Disqualify any interpreter determined by the ~~Administrative~~ Law ~~Judge~~ not to be competent for interpretation purposes.

(c) (Continued)

(4) any other individual determined by the ~~Administrative~~ Law ~~Judge~~ to be detrimental to the hearing process or having a bias or the appearance of being biased. (Continued)

.8 (Continued)

.82 Merits of a pending state hearing shall not be discussed between the ~~Administrative~~ ~~Law~~ ~~Judge~~ and a party outside the presence of the other party.

.9 Whenever it is necessary that another county be joined as a party to the action in order to dispose of all issues, the ~~Administrative~~ ~~Law~~ ~~Judge~~ shall so order and shall, subject to Section 22-053.3, postpone the hearing, hold the record of the hearing open, or continue the hearing as necessary. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-050.1, .11, .22, .23, .3, .4, .41, .42, and .43 to read:

22-050 EVIDENCE

22-050

- .1 The taking of evidence in a hearing shall be conducted by the ~~Administrative~~ Law ~~Judge~~ in a manner best suited to ascertain the facts and to control the conduct of the hearing.
 - .11 Prior to taking evidence, the ~~Administrative~~ Law ~~Judge~~ shall identify the issues and shall state the order in which evidence shall be received. (Continued)
- .2 (Continued)
 - .22 The ~~Administrative~~ Law ~~Judge~~ shall be permitted to exclude evidence which is irrelevant, cumulative or unduly repetitious.
 - .23 The ~~Administrative~~ Law ~~Judge~~ shall exclude evidence which is privileged under the Evidence Code if the privilege is claimed in accordance with law.
- .3 Although evidence may be admissible under Section 22-050.2, the ~~Administrative~~ Law ~~Judge~~ shall consider the nature of the evidence in assessing its probative value.
- .4 "Official Notice" describes the manner in which an ~~Administrative~~ Law ~~Judge~~ or the Director will recognize the existence and truth of certain facts which have a bearing on the issue in the case, without requiring the actual production of evidence to prove such facts. Official notice may be taken of either a proposition of law or a proposition of fact.
 - .41 The ~~Administrative~~ Law ~~Judge~~ or Director shall take official notice of those matters which must be judicially noticed by a court under Section 451 of the Evidence Code. (Continued)
 - .42 The ~~Administrative~~ Law ~~Judge~~ may take official notice of those matters set forth in Section 452 of the Evidence Code. (Continued)

.43 The ~~Administrative~~ ~~Law~~ ~~Judge~~ may take official notice of any generally accepted technical fact relating to the administration of public social service. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Section 22-051.5 to read:

22-051 THE EXAMINATION OF RECORDS AND ISSUANCE
OF SUBPOENAS (Continued)

22-051

.5 After the hearing has commenced, the ~~Administrative~~ Law
~~Judge~~ assigned to the case shall be permitted to issue a
subpoena or subpoena duces tecum as necessary.
(Continued)

Authority Cited: Sections 10553 and 10554, Welfare and
Institutions Code.

Reference: Sections 10553 and 10554, Welfare and
Institutions Code.

Amend Sections 22-053.112, .14, .142, 15, .151, .21, .211 and .212(c) to read:

22-053 POSTPONEMENTS AND CONTINUANCES FOR ADDITIONAL EVIDENCE

22-053

.1 (Continued)

.11 (Continued)

.112 Claimants shall be permitted to request additional postponements, However such requests shall be required to meet the good cause criteria set forth in Section 22-053.16.
(Continued)

.14 The ~~#~~Administrative Law JJudge shall have the authority to postpone a hearing, at the hearing, and continue any applicable aid pending if: (Continued)

.142 The county has failed to furnish adequate notice within the meaning of Sections 22-001.1(a)(1) and 22-049.52, and the claimant requests the postponement.

.15 The ~~#~~Administrative Law JJudge shall have the authority to postpone a hearing, for any other reason at his/her discretion.

.151 The ~~#~~Administrative Law JJudge shall order that aid pending be continued only if the postponement is necessary to insure a full and fair hearing and the postponement did not result from any act or omission on the part of the claimant. (Continued)

22-053 POSTPONEMENTS AND CONTINUANCES FOR ADDITIONAL EVIDENCE (Continued)

22-053

.2 (Continued)

.21 If the ~~#~~Administrative Law JJudge conducting the hearing determines that evidence not available at the hearing is necessary for the proper determination of the case, the ~~#~~Administrative Law JJudge shall have the authority, to:

.211 Continue the hearing to a later date. In connection therewith, the ~~Administrative~~ Law ~~Judge~~ shall have the authority to direct either party to produce additional evidence.
(Continued)

.212 (Continued)

(c) The ~~Administrative~~ Law ~~Judge~~ conducting the hearing shall have the authority to order a further hearing if the nature of the additional information or the rebuttal makes a further hearing necessary.
(Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-054.33 through .37 and .4 to read:

22-054 DISMISALS (Continued)

22-054

.3 (Continued)

- .33 The ~~Administrative~~ ~~Law~~ ~~Judge~~ determines at the hearing that the claimant or authorized representative is unwilling to present his/her case.
- .34 The ~~Administrative~~ ~~Law~~ ~~Judge~~ determines that the identical issue has been the subject of a previous state hearing involving the claimant.
- .35 The person who requests the hearing does not have standing to request the hearing. See Section 22-001/~~YC~~(72).
- .36 The ~~Administrative~~ ~~Law~~ ~~Judge~~ fails to receive a written authorization following the hearing as specified in Section 22-010.2.
- .37 The request for hearing raises a compliance issue, *e.g.*, an allegation that the county has failed to comply with a previously adopted state hearing decision. See Section 22-028.

.4 The Chief Administrative Law Judge shall have authority to dismiss, without a hearing and written decision, a hearing request which is subject to dismissal under Sections 22-054.31/ ~~33~~ or .37. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-055.1, .2, .21, .22, and .3 to read:

22-055 DISQUALIFICATION OF AN ADMINISTRATIVE LAW JUDGE

22-055

- .1 An ~~Administrative~~ Law ~~Judge~~ shall voluntarily disqualify himself or herself and withdraw from any proceeding in which he/she cannot give a fair and impartial hearing or in which he/she has an interest.
- .2 A party may request at any time prior to the close of the record, that the ~~Administrative~~ Law ~~Judge~~ be disqualified upon the grounds that a fair and impartial hearing cannot be held or a decision cannot be rendered.
 - .21 A request made prior to the close of the hearing record shall promptly be ruled upon by the ~~Administrative~~ Law ~~Judge~~.
 - .22 After the close of the record, and issuance of the decision, a request for rehearing must be filed in order to disqualify an ~~Administrative~~ Law ~~Judge~~.
- .3 If, at the beginning or during the hearing, the ~~Administrative~~ Law ~~Judge~~ upholds a party's motion for disqualification, the matter shall be postponed. A postponement due to a disqualification of an ~~Administrative~~ Law ~~Judge~~ shall be considered a postponement with good cause. If, after the hearing, but before the close of the record the ~~Administrative~~ Law ~~Judge~~ determines that disqualification is appropriate, the provisions of Section 22-061 shall apply.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-059.11 and .12 to read:

22-059 COMMUNICATIONS AFTER HEARING

22-059

.1 (Continued)

- .11 Oral and written communications after the hearing concerning the status of the decision, or the date of delivery of additional evidence to be submitted under the provisions of Section 22-053.212, or protesting an ~~Administrative~~ ~~Law~~ ~~Judge's~~ determination under Section 22-022.63 with respect to aid pending a hearing or a disqualification request under the provisions of Section 22-055, are not improper; and
- .12 An ~~Administrative~~ ~~Law~~ ~~Judge's~~ shall have authority on his/her own motion or at the request of either party to reopen the record for receipt of additional information, if all parties are notified of the reason for the reopening and the submission of such evidence conforms to the requirements of Sections 22-053.212/ and ~~Section 22-053.3.~~

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-061.1, .2, .22, .222, and .4 to read:

22-061 SUBMISSION OF PROPOSED DECISION/ADOPTION
OF FINAL DECISION

22-061

- .1 After the hearing has been closed, the ~~Administrative~~ Law ~~Judge~~ shall submit a proposed decision for review by the Chief Administrative Law Judge and submission to the Director, or shall adopt a final decision pursuant to the authority delegated to the administrative law judge by the Director.
- .2 If the ~~Administrative~~ Law ~~Judge~~ who heard the case is unavailable to prepare the proposed decision, the Chief Administrative Law Judge shall contact the claimant and notify him/her that the case is being assigned to another ~~Administrative~~ Law ~~Judge~~ for preparation of the decision on the record. (Continued)
- .22 An ~~Administrative~~ Law ~~Judge~~ shall be considered unavailable within the meaning of this section if he/she (Continued)
- .222 Has ceased employment as an ~~Administrative~~ Law ~~Judge~~; (Continued)

22-061 SUBMISSION OF PROPOSED DECISION/ADOPTION
OF FINAL DECISION (Continued)

22-061

- .4 Decisions rendered by ~~Administrative~~ Law ~~Judge~~ pursuant to the authority delegated to them by the Director shall be considered final upon signing and dating by the ~~Administrative~~ Law ~~Judge~~.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Section 22-063.1 to read:

22-063 NOTICE OF DECISION

22-063

.1 After the ~~Administrative~~ ~~Law~~ ~~Judge's~~ proposed or final decision is adopted or an alternate decision is rendered by the Director, a copy shall be mailed to the claimant and the county. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Section 22-064.1 to read:

22-064 AVAILABILITY OF STATE HEARING RECORDS

22-064

.1 The verbatim record of the testimony and exhibits, or an official report containing the substance of what transpired at the hearing, together with all papers and the request filed in the proceedings, and the ~~Administrative Law~~ ~~Judge's~~ proposed decision shall constitute the exclusive record for decision. Such materials shall be available to the claimant and the county during normal working hours at the ~~Office of the Chief Administrative Law Judge~~ Adjudications Division or at a mutually agreed-upon location for three years after the date of the decision of the Director.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-065.11 and .9 to read:

22-065 REHEARING

22-065

.1 The claimant or the county may file a request for a rehearing.

.11 Such request shall be in writing and shall be filed with the ~~Office of the Chief Administrative Law Judge~~ Adjudications Division not more than 30 days after receipt of the hearing decision. (Continued)

22-065 REHEARING (Continued)

22-065

.9 After a rehearing request has been granted, it shall be permitted to be withdrawn by the requesting party subject to the approval of the Chief Administrative Law Judge, his/her designee or the ~~Administrative Law Judge~~.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

FILED

In the office of the Secretary of State
of the State of California

SEP 15 1990

At 3:35 o'clock P.M.

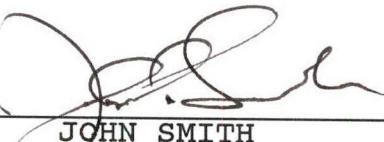
MARCH FONG EU, Secretary of State

By Shirley L. Williams
Duly Notary Public

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the City of Sacramento, State of California.

Submitting Agency: Social Services

OAL File No: 90-0814-07


JOHN SMITH
CHIEF COUNSEL

09/13/90

REGULAR
NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 9-90)

(See Instructions on
reverse)

For use by Secretary of State only

CAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER	PREVIOUS REGULATORY ACTION NUMBER
		2-90-0821-01N		

For use by Office of Administrative Law (OAL) only

1990 AUG 21 AM 9:54

OFFICE OF
ADMINISTRATIVE LAWENDORSED
APPROVED FOR FILING

SEP 20 1990

Office of Administrative Law

NOTICE

REGULATIONS

AGENCY

STATE DEPARTMENT OF SOCIAL SERVICES

AGENCY FILE NUMBER (if any)

RDB#0890-36

FILED
In the office of the Secretary of State
of the State of California

SEP 20 1990

At 4:27 o'clock P.M.
MARCH 20, 1990, Secretary of State
By *Linda McMahon*
Deputy Secretary of State**A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)**

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	
OAL USE ONLY <input type="checkbox"/> Approved as Submitted	<input type="checkbox"/> Approved as Modified	<input type="checkbox"/> Disapproved/ Withdrawn	NOTICE REGISTER NUMBER
			PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)**1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)**

SECTIONS AFFECTED	ADOPT	
	AMEND	
TITLE(S) 22		REPEAL
30850, 30853, 30855, 30857, 30858 and 30859		

2. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code, § 11346)	<input type="checkbox"/> Resubmittal	<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)	<input type="checkbox"/> Emergency (Gov. Code, § 11346.1(b))
<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.			
<input type="checkbox"/> Print Only		<input type="checkbox"/> Other (specify) _____	

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

Not applicable

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)		
<input checked="" type="checkbox"/> Effective 30th day after filing with Secretary of State	<input type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> Effective other (Specify) _____

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
--	--	---

7. OTHER (Specify)

6. CONTACT PERSON Rosalie Clark, Chief, Regulations Development Bureau	TELEPHONE NUMBER 445-0313
---	------------------------------

7. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE
Linda S. McMahon

DATE

8-20-90

TYPED NAME AND TITLE OF SIGNATORY

LINDA S. MCMAHON, DIRECTOR

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 7-90) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the agency name and agency file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

~~§ 30850~~ 35400

(p. 574)

SOCIAL SERVICES—HEALTH SERVICES

TITLE 22

(Register 82, No. 11—3-13-82)

9
SUBCHAPTER 35 INTERSTATE COMPACT ON THE PLACEMENT
OF CHILDREN (ICPC)

35400

Article 1. Definitions and Conditions

~~30850~~. Definitions.

- (a) "DSS" means the California Department of Social Services.
- (b) "ICPC" means "Interstate Compact on the Placement of Children".
- (c) "ICPC 100A" means the Department of Social Services form "Request to Place Child".
- (d) "ICPC 100B" means the Department of Social Services form "Report on Placement Status of Child".
- (e) "ICA" means Interstate Compact Administrator.
- (f) "Local California agency" means the Department of Social Services or a licensed public or private adoption agency.
- (g) "Member state" means a state which is a member of the Interstate Compact on the Placement of Children.
- (h) "Placement" means the arrangement for the care of a child in a family that has been studied and approved for adoption or has had a preplacement interview completed by a licensed adoption agency.

NOTE: Authority cited: Section 10553, Welfare and Institutions Code. Reference: Sections 265 and 267, Civil Code.

HISTORY:

1. New Subchapter 3.5 (Articles 1-3, Sections 30853-30859, not consecutive) filed 2-2-82; effective thirtieth day thereafter (Register 82, No. 6).

35401

Article 2. Relinquishment Adoptions

~~30853~~. Children Leaving California.

- (a) To initiate a home evaluation:
 - (1) The local California agency shall summarize information about the child, request a home study, and:
 - (A) If the receiving state local adoption agency is known, forward one copy of the child summary and home study request to that local agency and one copy to the receiving state appropriate public authority indicating that the ICPC 100A is being submitted through the DSS.
 - (B) If the receiving state local adoption agency is unknown, forward two copies of the child summary and home study request to the receiving state appropriate public authority, indicating that the ICPC 100A is being submitted through the DSS.
 - (C) In all cases, forward one copy of the home study request and five copies of the ICPC 100A to the DSS.
 - (2) The DSS shall sign and forward four copies of the ICPC 100A to the receiving state appropriate public authority.
 - (3) (Reserved)
 - (4) The DSS shall forward one copy of the approved/disapproved ICPC 100A to the local California agency.
- (b) To place a child in a home which has been approved by the receiving state:

TITLE 22 SOCIAL SERVICES—HEALTH SERVICES
(Register 82, No. 11—3-13-82)

~~30855~~ 35403

(p. 574.1)

(1) The sending local California agency shall make the arrangements for and complete the placement directly with the local adoption agency in the receiving state.

(2) The sending local California agency shall forward to the DSS:

- (A) Three copies of the ICPC 100B completed with the date of placement;
- (B) One copy of all legal and other pertinent documents not previously submitted to the receiving state appropriate public authority or local adoption agency.

(3) The DSS shall sign and forward the ICPC 100B and other material to the receiving state appropriate public authority.

(c) To place a child when an approved home study by a receiving state adoption agency has been previously exchanged with the sending local California agency:

- (1) The local California agency shall forward to the DSS:
 - (A) Five copies of the completed ICPC 100A;
 - (B) Two copies of the approved home study and all legal and other pertinent documents not previously submitted to the receiving state.
- (2) The DSS shall sign and submit the ICPC 100A and other material to the receiving state appropriate public authority for approval.
- (3) (Reserved)
- (4) The DSS shall forward one copy of the approved/disapproved ICPC 100A to the local California agency.
- (5) When placement has been approved by the receiving state, the local California agency shall proceed in accordance with Section 30853(b) above.
30853
35401
- (d) (Reserved)
- (e) To request continued supervision for those cases in which placement has been made in California and the child and family subsequently move to another member state before the adoption is final:
 - (1) The local California agency shall forward to the DSS:
 - (A) Five copies of the completed ICPC 100A,
 - (B) Three copies of the home study, child study, summary of its supervisory reports, and legal and other pertinent documents.
 - (2) The local California agency shall request the receiving state local agency to advise the family of the requirements necessary for completion of the adoption.
 - (3) The DSS shall sign and forward to the receiving state appropriate public authority for approval:
 - (A) Four copies of the ICPC 100A,
 - (B) Two copies of the home study, child study, and other legal and pertinent documents.
 - (4) (Reserved)
 - (5) The DSS shall forward one copy of the approved/disapproved ICPC 100A to the local California agency.

NOTE: Authority cited: Section 10553, Welfare and Institutions Code; and Section 1530, Health and Safety Code. Reference: Sections 265 and 267, Civil Code.

HISTORY:

1. Editorial correction of subsections (a) and (c)-(e) (Register 82, No. 11).
35403

30853. Children Entering California.

(a) When a home evaluation request is submitted to California from a sending member state:

- (1) Following the receipt of the home study request and four copies of ICPC 100A:
 - (A) The DSS shall forward the request to the appropriate local California agency.

35405

§ 30857

(p. 574.2)

SOCIAL SERVICES—HEALTH SERVICES

TITLE 22

(Register 82, No. 11—3-13-82)

(B) The local California agency shall complete the home study and forward the home study report directly to the sending state appropriate public authority with a copy to the DSS.

(C) The DSS shall approve or disapprove the placement on the ICPC 100A, based upon the recommendation of the local California agency, and forward to the sending state appropriate public authority with a copy to the sending agency.

(b) To place a child in a home which has an approved home study by a local California agency:

(1) The local California agency shall make the arrangements for and complete the placement directly with the sending agency.

(2) Upon completion of placement, the DSS shall require a completed copy of the ICPC 100B from the sending state appropriate public authority.

(3) The DSS shall forward the ICPC 100B to the appropriate local California agency.

(c) To place a child when an approved home study by a local California agency has been previously exchanged with the sending agency:

(1) The DSS shall require that the sending state appropriate public authority shall submit:

(A) Four copies of the ICPC 100A;

(B) One copy of all legal and other pertinent documents not previously submitted to the local California agency.

(2) The DSS shall return the approved or disapproved ICPC 100A to the sending state appropriate public authority with a copy to the local California agency.

(3) When the local California agency has received the ICPC 100A approving placement, the agency shall proceed in accordance with Section 30857(b) above.

(d) The local California agency providing supervision shall forward supervisory reports, as indicated on the ICPC 100A, directly to the sending state appropriate public authority.

NOTE: Authority cited: Section 10553, Welfare and Institutions Code; and Section 1530, Health and Safety Code. Reference: Sections 265 and 267, Civil Code.

35405

Article 3. Independent Adoptions

30857. General.

(a) The following provisions apply to the natural parent(s).

(1) Only the natural parent(s) may make adoptive placement plans for his/her child.

(2) The natural parent(s) is considered the sending agency.

(3) The natural parent(s) remains financially responsible for the child until the adoption is made final.

NOTE: Authority cited: Section 10553, Welfare and Institutions Code. Reference: Sections 224q and 265, Civil Code.

35407
30858. Children Leaving California.

(a) The DSS [because California is the state where the natural parent(s) lives] shall request the natural parent(s) to submit to the ICA for forwarding, or to the receiving state appropriate public authority (the state where the prospective adoptive parents live) the following:

TITLE 22 SOCIAL SERVICES—HEALTH SERVICES
(Register 82, No. 11—3-13-82)

§ 30859 *35409*
(p. 574.3)

(1) Five copies of the completed ICPC 100A.
(2) Three copies of a family history including but not limited to the following:
 (A) Composition of the family.
 (B) Marital status of the parents.
 (C) Age, physical appearance, religion, personality, and mental and physical disabilities.
 (D) School and employment history.
 (E) Reason for placement in another state.
 (F) Medical information on the child (may be submitted after birth).
(3) Three copies of a statement notarized by the parent confirming the plan for adoptive placement, including the name(s) and address of the prospective adoptive parent(s).
 (c) (Reserved)
 (1) (Reserved)
 (2) (Reserved)
(3) The DSS shall notify the natural parent(s) of the receiving state decision.
(d) If prospective adoptive parents move from California to another member state before an independent adoption is completed, the DSS district office or delegated California adoption agency which has had the responsibility for investigating the independent adoption shall:
 (1) Send two copies of a summary of information on the child and prospective family to the receiving state appropriate public authority, i.e., the state to which they are moving, indicating that the Form ICPC 100A is being submitted through the DSS.
 (2) The DSS shall sign and forward the ICPC 100A to the receiving state appropriate public authority.
 (3) (Reserved)
 (4) The DSS shall forward one copy of the ICPC 100A to the district office or delegated local California agency.

NOTE: Authority cited: Section 10553, Welfare and Institutions Code. Reference: Section 265, Civil Code.

HISTORY:

1. Editorial correction renumbering subsections (Register 82, No. 11).

35409
30859. Children Entering California.

(a) The sending agency [the natural parent] shall furnish the following information to the DSS:
 (1) Five copies of the completed ICPC 100A.
 (2) Three copies of a family history including but not limited to the following:
 (A) Composition of the family.
 (B) Marital status of the parents.
 (C) Age, physical appearance, religion, personality, and mental and physical disabilities.
 (D) School and employment history.
 (E) Reason for placement in another state.
 (F) Medical information on the child (may be submitted after birth).
 (3) Three copies of a statement notarized by the parent confirming the plan for adoptive placement, including the name(s) and address of the prospective adoptive parent(s).
 (b) Before a child is permitted to enter California, a preplacement interview shall be held with the prospective adoptive parent(s) by a DSS district office or an adoption agency delegated responsibility by the DSS for making studies and reports to the court on independent adoptions. The interview shall be to assure that the planned placement is not contrary to the interests of the child

35409
§ 30859
(p. 574.4)

SOCIAL SERVICES—HEALTH SERVICES

TITLE 22

(Register 82, No. 11—3-13-82)

(1) If the child is unborn and placement is planned shortly after birth, the DSS shall be notified of the proposed placement at least 30 days prior to the expected birth to allow time for the preplacement interview.

(c) Upon receipt of the information required in (a) above and completion of the preplacement interview:

(1) The DSS shall approve or deny the request for placement on the ICPC 100A and return it to the sending agency and the sending state appropriate public authority.

(2) The prospective adoptive parent(s) shall be notified of the decision by the DSS.

NOTE: Authority cited: Section 10553, Welfare and Institutions Code. Reference: Sections 265 and 267, Civil Code.

Memorandum

To : Office of Administrative Law
555 Capitol Mall Suite 1290
Sacramento, CA 95814

Date : August 10, 1990

Subject : ICPC Renumbering
RDB# 0890-36

From : Department of Social Services

The State Department of Social Services (SDSS) is hereby submitting this correction of a printing error and nonsubstantive filing for the Interstate Compact on the Placement of Children (ICPC) regulations.

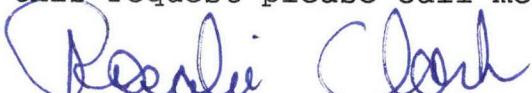
This nonsubstantive filing will renumber these regulations into a logical format that will be consistent with current Adoptions regulations in the California Code of Regulations (CCR). It also corrects reference cites within these sections.

On July 31, 1987, OAL#87-0731-03 Adoptions regulations were filed with the Office of Administrative Law and became effective October 1, 1987. (see endorsed file copy attached). This package was a comprehensive review and revision of the Adoptions regulations which included renumbering these regulations in their entirety. At that time, the ICPC regulations were not included in this renumbering and were not proposed for repeal.

During a telephone conversation between David Potter the attorney at OAL and Roy Howard of my staff it was discovered that because of this filing the ICPC regulations were inadvertently removed from the CCR, and would need to be reprinted. This printing error was not corrected and it has recently come to our attention that these regulations are still not included in the CCR.

Therefore, the Department requests that OAL print these regulations in the CCR and approve the renumbering so that the users have a complete copy of the Adoptions regulations.

Thank you for your time and consideration in reviewing this nonsubstantive filing, and if you have any questions regarding this request please call me at 5-0313.


Rosalie Clark, Chief
Regulations Development Bureau

Attachments

RECEIVED
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

(See Instructions on Reverse)

SEARCHED / INDEXED / REVIEWED

OFFICE OF ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING
SEP 01 1987

OFFICE OF ADMINISTRATIVE LAW
For use of Office of Adm Law

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

Department of Social Services

AGENCY

Lil S. Melvin

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 8/31/87

RDB #0285-14

ENDORSED FILED
IN THE OFFICE OF

SEP 1 4 45 PM 1987

MARCH FONG EU
SECRETARY OF STATE
OF CALIFORNIA

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING
(See instructions)

TITLE

TELEPHONE

445-0313

Rosalie P. Clark, Chief, Regulations Development Bureau

2. Type of filing, (check one) 30-day Review Emergency

Certificate of Compliance
(Complete Part 4 below)

Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
 Nonsubstantive changes with nonregulatory effect Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

SECTIONS ADOPTED:

Title _____

See Attachment #1

SECTIONS AMENDED:

See Attachment #1A

SECTIONS REPEALED:

See Attachments #1B through #1H

b. The following sections listed in 3a contain modifications to the text originally made available to the public:

See Attachment #2

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

prior to the emergency adoption
 within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

No Yes, if yes, give date(s) of prior submittal(s) to OAL: October 2, 1986

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

No Yes, if yes, give date statement was submitted to OAL May 31, 1983

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

Fair Political Practices Commission
(Include FPPC approval stamp) Building Standards Commission
(Attach approval)
 State Fire Marshall (Attach approval) Department of Finance (Attach properly signed Std. 399)
 Other _____

(SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

October 4, 1985

b. DATE OF FINAL AGENCY ACTION

August 31, 1987

c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT.

CODE SEC. 11346.8(c) July 7 through July 1986; June 19, 1987 through July 6, 1987

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

a. Effective 30th day after filing with the Secretary of State.
b. Effective upon filing with the Secretary of State.
c. Effective on _____ as required or allowed by the following statute(s):
d. Effective on _____ (Designate effective date earlier than 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
e. Effective on _____ (Designate effective date later than the normal effective date for the type of order filed.)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.

Attachment #1: Sections Adopted

70-100(a) through (yy)	70-501	70-708.1
70-200	70-502	70-800
70-201.1 through .4	70-503.1 through .7	70-801.1 and .2
70-202.1 through .4	70-504.1 through .3	70-802.1 through .4
70-203.1	70-505.1	70-803.1
70-204.1 through .3	70-506.1 through .8	70-804.1 through .4
70-205.1 through .4	70-507.1 through .8	70-805.1 and .2
70-300	70-508.1 through .9	70-806.1
70-301.1 through .4	70-509.1 through .4	70-807.1
70-302.1 and .2	70-700	70-808.1
70-303.1 through .9	70-701.1 through .4	70-809.1 and .2
70-400	70-702.1	
70-401.1 through .8	70-703.1 through .3	
70-402.1 through .7	70-704.1	
70-403.1 through .7	70-705.1	
70-404.1	70-706.1	
70-405.1 and .2	70-707.1 and .2	
70-500		

Attachment #1A: Sections Amended

70-600
70-601.1, .2, .3, .4, .5, .6, and .7
70-602
70-603.1, .4, .5, .6, .7, .8, and .9
70-604.2, .4, and .7
70-605.3 and .4
70-606.1
70-607.3, .4, and .6
70-608.2 and .5

Attachment #1B: Sections Repealed

70-802.1 through .5

Attachment #2: Modified Text Made Available to Public During Second
15-Day Renotice.

70-100(d), (h), (z), and (zz)
70-201.1 and .3
70-203.1
70-205.3
70-301.1
70-302.1(j) and (s)
70-303.1, .2, .3, .7, and .8
70-401.13
70-403.73
70-405.121
70-503.713
70-504.1
70-506.52
70-506.81
70-507.2, .4, .5, .6, .7, and .8
70-508.75
70-600
70-606.15
70-701.1 and .3
70-702.1
70-703.2 and .3
70-705.1
70-708.1
70-802.1 and .4
70-806.1
70-809.1

Repeal Sections 30517 through 30611, not consecutive as follows:

TITLE 22 SOCIAL SERVICES—HEALTH SERVICES
 (Register 22, No. 6—2-8-82) (p. 519)

CHAPTER 3. ADOPTIONS AND CHILD PLACING AGENCIES

Subchapter

1. Adoption Agencies Licensing Application
2. Relinquishment Adoptions
3. Independent Adoptions
4. Adoption of Indian Children Subject to Provisions of the Federal Indian Child Welfare Act of 1978

DETAILED ANALYSIS

SUBCHAPTER 1. ADOPTION AGENCIES LICENSING APPLICATION

Article 1. Licensing

Section

- 30517. Maternity Care Plan
- 30519. County Adoption Agency Agreements—Maternity Care Program
- 30521. To Whom Payment is Made
- 30523. Period for Which Payment Can Be Made
- 30525. Repayment of Maternity Care

Article 2. Organization and Administration of an Adoption Agency

Section

- 30527. Administration—Public and Private Agencies
- 30545. Finances—Public Agencies

Article 3. Agency Offices and Records

Section

- 30567. Records, Reports and Statistics
- 30569. Case Records—Relinquishment and Independent Adoptions
- 30571. Independent Adoptions Case Records
- 30573. Case Documents Filed with SDSW
- 30575. Forms and Form Letters
- 30577. Continuing Agency Responsibility
- 30579. Completing Casework Services
- 30581. Case Records of Terminated Adoption Services

SUBCHAPTER 2. RELINQUISHMENT ADOPTIONS

Article 1. Program in Adoption Placement Agency

Section

- 30582. Definitions
- 30583. Agency Program
- 30585. Agency Standards of Services
- 30587. Case Recording
- 30589. Acceptable Medical Reports

Article 2. Natural Parents and Children

Section

- 30591. Intake Policies
- 30595. Required Study—Natural Parents
- 30597. Maternity Care Program
- 30599. Who May Receive Maternity Care Assistance
- 30601. Resources Available to the Mother
- 30603. Legal Residence
- 30605. Services and Study—The Child
- 30607. Authorizations for Release of Information
- 30609. Authorization for Medical Care
- 30611. Preadoptive Care

Authority: Welfare and Institutions Code Section 10553 and 10554

Reference: Welfare and Institutions Code Section 10553 and 10554

Repeal Sections 30616 through 30663, not consecutive as follows:

SOCIAL SERVICES—HEALTH SERVICES TITLE 22

(Register 82, No. 6-24-82)

(p. 520)

Article 3. Relinquishment

Section

- 30616. Language Translation and/or Reading
- 30619. Corrections or Alterations to the Relinquishment Form
- 30622. Copy to Parent

- 30625.1. Revocation
- 30625.3. Procedures Following Revocation
- 30625.5. Rescission
- 30625.7. Procedures Following Requests to Rescind

Article 3.5. Termination of Parental Rights

Section

- 30626. Termination of Parental Rights
- 30626.1. Definitions
- 30626.2. Procedures Regarding Alleged Natural Father

Article 4. Work With Applicants for Children

Section

- 30627. Acceptance of Applications
- 30629. Application—Prerequisite to Study
- 30631. Selecting Homes for Study
- 30633. Interviews During Study
- 30635. Authorizations
- 30637. Content of Study

Article 5. Placement and Supervision

Section

- 30639. Factors in Placement
- 30641. Responsibility of Agency to Inform Adopting or Foster Parents About Law Regarding Concealment of a Child
- 30643. Selection of Adoptive Parents for Child
- 30645. Placement Agreement Between the Agency and the Adoptive Parent or Parents
- 30647. Supervisory Period After Placement for Adoption
- 30649. Services and Legal Completion of Adoption When Families Move After Placement

Article 6. Court Proceedings and Completion of Adoption

Section

- 30651. Medical Responsibility of the Agency
- 30653. Responsibility of Agency to Tell Petitioners About Disbursement Report
- 30655. Agency Joinder and Consent to Adoption
- 30657. Court Report by Agency
- 30659. Pleading by Agency
- 30661. Motion by Agency for Approval to Terminate Placement
- 30663. Certificate of Adoption

Authority: Welfare And Institutions Code Sections 10553 and 10554

Reference: Welfare and Institutions Code Sections 10553 and 10554

Repeal Sections 30665 through 30713; not consecutive as follows:

TITLE 22		SOCIAL SERVICES—HEALTH SERVICES	(p. 521)
(Register 82, No. 8-2-6-82)		Article 7. Aid for the Adoption of Children	
Section		Purpose	
30665.		Children and Families Served	
30667.		Recruitment and Information	
30669.		Exploration of Resources	
30670.		Financial Assistance	
30671.		Aid for the Adoption of Children Agreement	
30672.		Record Required	
30672.1		Responsibility for Payment	
30673.		Private Agency—Cost Reimbursement	
30674.		Article 8. Adoption Resource Referral Center	
Section		Purpose	
30675.		Registration	
30677.		Referrals	
30679.		Discontinuance Notifications	
30681.		Cooperation With Adoption Resource Exchange of North America	
30683.		Article 9. Grievance Procedures—Relinquishment Adoption Program	
Section		Grievance Procedures	
30684.		SUBCHAPTER 3. INDEPENDENT ADOPTIONS	
Article 1. The Study		Article 1. The Study	
Section		Independent Adoption	
30685.		Services to Biological Parents, Child and Petitioners	
30686.		Time Allowed for Study	
30687.		The Adoptive Home	
30688.		Content of the Study	
30689.		The Child	
30691.		The Parents	
30693.		Adoptive Petitioners Absent From California	
30695.		The Narrative Record	
30697.		Responsibility of Agency to Tell Petitioners About Disbursement	
30699.		Report	
30701.		Responsibility of Agency to Inform Petitioners About Concealment	
		Provisions	
30703.		Medical Reports and Examinations	
30705.		Authorization	
30707.		Verifications	
30709.		Verification of Removal of Child from Adoptive Home	
Article 2. Other Processes Related to Study		Article 2. Other Processes Related to Study	
Section		Concurrent Petitions	
30711.		Extension of Time	
30713.			

Authority : Welfare and Institutions Code Sections 10553 and 10554

Reference: Welfare and Institutions Code Sections 10553 and 10554

Repeal Sections 30715 through 30807, not consecutive as follows:

SOCIAL SERVICES—HEALTH SERVICES TITLE 22

(Register No. 6-24-82)

(p. 522)

Article 3. Consent

Section
30715. Requirements Prior to Taking a Consent
30717. Translation or Reading of Consent Form
30719. Taking a Consent; Content of a Consent Form
30721. Copy to Consenting Parents and Petitioners
30723. Correcting or Altering a Consent
30724. Termination of Parental Rights
30724.1 Definitions
30724.2 Procedures Regarding Alleged Natural Father

Article 4. The Court Report

Section
30725. Filing
30727. Content
30729. Supplemental Reports
30731. Reporting to Court on Serious Questions

Article 5. Court Proceedings and Completion of Adoption

Section
30735. Certificate of Adoption

Article 6. Case Files, Records and Reports

Section
30737. Case Records Confidential

Article 7. Planning for Child in Denials and Dismissals

Section
30801. Responsibilities and Alternatives When Adoption is Not to be Completed
30803. Commitment Procedures
30805. Permanent Plan
30807. Commitment Termination

Authority: Welfare and Institutions Code Sections 10553 and 10554

Reference: Welfare and Institutions Code Sections 10553 and 10554

Repeal Sections 30900 through 30966, not consecutive as follows:

TITLE 22 SOCIAL SERVICES—HEALTH SERVICES

(Register #2, No. 6—2-6-82)

(p. 522.1)

SUBCHAPTER 4. ADOPTION OF INDIAN CHILDREN SUBJECT TO PROVISIONS OF THE FEDERAL INDIAN CHILD WELFARE ACT OF 1978

Article 1. Definitions

Section
30900.

Definitions

Article 2. Certification of Indian Blood; Tribal Eligibility; Tribal Enrollment

Section
30905.

Certification Procedures of Agency or District Office

Article 3. Natural Parents and Children

Section
30910.

Required Study—Natural Parents

30912.

Informing Parents of Act's Provisions

30914.

Information Transmitted to Adoptee

Article 4. Relinquishment

Section
30919.

Relinquishment—General Requirements

30921.

Taking Relinquishment

30923.

Filing Relinquishment

30925.

Rescinding Relinquishment

Article 5. Consent—Independent Adoption

Section
30930.

Consent—General Requirements

30932.

Taking Consent

30934.

Withdrawing Consent

Article 6. Termination of Parental Rights

Section
30940.

Termination of Parental Rights—General Requirements

30942.

Voluntary Termination of Parental Rights

30944.

Involuntary Termination of Parental Rights

Article 7. Work with Applicants for Indian Children

Section
30950.

Work with Applicants—General Requirements

30952.

Information Transmitted to Applicants

Article 8. Petitioners for the Adoption of Indian Child—Independent Adoptions

Section
30957.

Information Transmitted to Independent Petitioners

Article 9. Placement and Supervision

Section
30962.

Placement and Supervision—General Requirements

30964.

Selection of Adoptive Parents for an Indian Child

30966.

Placement Agreement Between the Agency and the Adoptive

Parent(s)

)Authority: Welfare and Institutions Code Sections 10553 and 10554

Reference: Welfare and Institutions Code Sections 10553 and 10554

(p. 522.2)

SOCIAL SERVICES—HEALTH SERVICES

TITLE 22

(Register 82, No. 6-2-6-82)

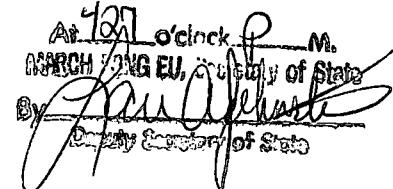
OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF
APPROVAL

F I L E D
In the Office of the Secretary of State
of the State of California

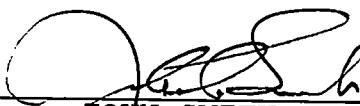
SEP 10 1990

At 10:00 o'clock P.M.
MARCH 20, 1990, in the City of Sacramento
By 
Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the City of Sacramento, State of California.

Submitting Agency: Social Services

OAL File No: 90-0821-01


JOHN SMITH
CHIEF COUNSEL

09/20/90

EMERGENCY
NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 7-90)

(See instructions on
reverse)

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER Z90-0904-01	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 190-0914-01E	PREVIOUS REGULATORY ACTION NUMBER
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For use by Office of Administrative Law (OAL) only

1990 SEP 14 AM 11:06

OFFICE OF
ADMINISTRATIVE LAW
ENDORSED
APPROVED FOR FILING
SEP 24 1990

Office of Administrative Law

NOTICE

REGULATIONS

AGENCY

Department of Social Services

AGENCY FILE NUMBER (if any)

RDB #0790-30

FILED
In the office of the Secretary of State
of the State of California

SEP 24 1990

At 4:49 o'clock P.M.
MARCH FONG EU, Secretary of State
By Michael L. Williams
Deputy Secretary of State

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input checked="" type="checkbox"/> Regulatory Action	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	
OAL USE ONLY <input type="checkbox"/> Approved as Submitted	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified	<input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER
			PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)**1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S)** (Including title 26, if toxics-related)

SECTIONS AFFECTED	ADOPT Chapter 12-300, Sections 12-301, 302 and 303
	AMEND
TITLE(S) MPP	REPEAL

2. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code, § 11346)	<input type="checkbox"/> Resubmittal	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)	<input checked="" type="checkbox"/> Emergency (Gov. Code, § 11346.1(b))
<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.			
<input type="checkbox"/> Print Only		<input type="checkbox"/> Other (specify)	

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

N/A

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)		
<input type="checkbox"/> Effective 30th day after filing with Secretary of State	<input type="checkbox"/> Effective on filing with Secretary of State	<input checked="" type="checkbox"/> Effective other (Specify) October 1, 1990

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input checked="" type="checkbox"/> Department of Finance (Form STD. 399)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
---	--	---

 Other (Specify)

6. CONTACT PERSON Rosalie Clark, Chief, Regulations Development Bureau	TELEPHONE NUMBER 445-0313
---	------------------------------

7. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

TYPED NAME AND TITLE OF SIGNATORY

Linda S. McMahon, Director

DATE

8-29-90

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 7-90) (REVERSE)

INSTRUCTIONS FOR PUBLICATION OF NOTICE AND SUBMISSION OF REGULATIONS

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the agency name and agency file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

Adopt MPP Chapter 12-300 and Sections 12-301 and 12-301.1 through 12-301.3 to read:

12-300 CASE CLOSURE

12-300

12-301 GENERAL

12-301

.1 The district attorney shall establish and use a system for closing Title IV-D cases in accordance with this chapter.

.11 The district attorney shall be permitted to continue to work a case that otherwise qualifies for closure under Section 12-302, if the district attorney believes there is potential for success.

.2 Definitions of terms used in these regulations, which are common to the Child Support Enforcement Program, are found in MPP Sections 11-701, 12-101.3, and 12-601.

.3 Definitions of terms specific to these regulations are:

a. and b. (Reserved)

c.(1) Case closure -- means that Title IV-D services will no longer be provided. However, closure does not affect the support order, if the order is still current, or arrearages have accrued under the order. Although the district attorney closes a case, a support order that is current remains in effect and arrearages continue to accrue for the life of the order.

d. through z. (Reserved)

Authority Cited: Sections 10554, 11475 and 11479.5, Welfare and Institutions Code.

Reference: Section 11479.5, Welfare and Institutions Code; 45 CFR Section 303.11(a); Federal Register, Vol. 54, No. 149, August 4, 1989, page 32303, comments a.1 and a.3.

Adopt MPP Sections 12-302 and 12-302.1 through 302.5 to read:

12-302 CASE CLOSURE CRITERIA

12-302

.1 Title IV-D cases qualify for closure only if they meet at least one of the following criteria:

(a) There is no longer a current support order and arrearages are under \$500; or, arrearages are unenforceable under state law. Situations to which these criteria apply include, but are not limited to, the following:

(1) Reconciliation of the family or the death of a child constitutes grounds for terminating the current support order.

(2) Medical support orders and arrearages which accrue under such orders. Medical support arrearages would be part of the arrearages accruing under the support order if a specific dollar amount for medical support is designated in the order by a court or administrative authority.

(b) The absent parent or putative father is deceased and both of the following apply:

(1) No further action can be taken; including a levy against the estate.

(2) The district attorney has documented the attempts to identify assets which could be levied and the attempts were unsuccessful.

(c) Paternity cannot be established because of one of the following:

(1) A genetic test or court or administrative process has excluded the putative father and no other putative father can be identified.

(2) The district attorney determines that the child's best interest will not be served by establishing paternity because incest or rape was involved, or legal proceedings for adoption are pending.

(d) The absent parent's location is unknown and the district attorney has made quarterly attempts for three years, using multiple sources, to locate the absent parent, all of which have been unsuccessful.

(e) The absent parent cannot pay support for the duration of the child's minority for any of the three reasons stated below and the district attorney determines that no income or assets are available to the absent parent which could be levied or attached for support:

- (1) The absent parent is institutionalized in a psychiatric facility.
- (2) The absent parent is incarcerated with no chance of parole.
- (3) The absent parent has a medically verified total and permanent disability with no evidence of support potential.

(f) The absent parent lives in a foreign country and all of the following apply:

- (1) The absent parent is a citizen of a foreign country.
- (2) The absent parent does not work for the United States government or a company which has its headquarters or offices in the United States.
- (3) The absent parent has no reachable domestic income or assets.
- (4) The state is unable to establish reciprocity with the country.

(g) The district attorney has provided location-only services as requested by the custodial parent, legal guardian, attorney, or agent of a child who is not receiving AFDC, whether or not such services were successful.

(h) The non-AFDC custodial parent requests closure of a case and any arrearages assigned to the state are under \$500.

(i) There has been a finding of good cause and the state or local welfare (Title IV-A) or foster care (Title IV-E) agency has determined that support enforcement may not proceed without risk or harm to the child or caretaker relative. (See MPP Section 43-107.4 for good cause criteria.)

(j) The district attorney is unable to contact the non-AFDC custodial parent over a 30-calendar-day period despite attempts to contact the parent both by phone and letter, including at least one certified, return receipt, letter.

(k) The non-AFDC custodial parent is uncooperative and both of the following apply:

(1) The district attorney documents the circumstances of noncooperation in the case file.

(2) An action by the custodial parent is essential for the next step in providing Title IV-D services.

(l) The case involves only the establishment of an order for the reimbursement of aid and all of the following apply:

(1) Aid has terminated.

(2) The absent parent is located.

(3) The absent parent refuses to stipulate to a reimbursement order.

(4) Court ordered reimbursement cannot reasonably be expected to exceed \$1,000.

(m) The custodial parent has moved to another county or state and both of the following apply:

(1) The custodial parent applied for services in the other county or state.

(2) The district attorney documents in the case file that contact was made with the other county or state to confirm that the custodial parent has applied for services in the other county or state, or, in the case of an intercounty transfer, to confirm that the case has been transferred.

.2 The district attorney shall notify the custodial parent of the Title IV-D agency's intent to close the case.

.21 Notice of case closure need not be provided for cases closed under Sections 12-302.1(g), .1(h), or .1(i).

.3 Notice of case closure shall be sent in writing 60 calendar days prior to closing the case.

(a) The case shall be kept open if the custodial parent responds to the closure notice with information that could lead to the establishment of paternity or a support order or enforcement of an order.

(b) The case shall remain open if contact is re-established with the custodial parent in the instance of Section 12-302.1(j).

.4 The case shall be considered for reopening at a later date if the custodial parent requests that the case be reopened and can provide information that could lead to the establishment of paternity or a support order or enforcement of an order.

Authority Cited: Sections 10554, 11475 and 11479.5, Welfare and Institutions Code.

Reference: 45 CFR Sections 302.35(c)(3), 303.3(b)(5), 303.11(b)(1) through (b)(12), and (c); Sections 11350 and 11479.5, Welfare and Institutions Code; Federal Register, Vol. 54, No. 149, dated August 4, 1989, page 32304, comments b.3, b.4 and c.2 and page 32306, comment k; Federal Register, Vol. 54, No. 98, dated May 23, 1989, page 22328, first column, second paragraph; Sections 4700(c) and 7006(a)(1), Civil Code; and Office of Child Support Enforcement letter dated November 3, 1989.

Adopt MPP Sections 12-303 and 12-303.1 through 12-303.112 to read:

12-303 RECORD RETENTION

12-303

- .1 Closed Title IV-D case records shall be retained for a minimum of three years from the date the State Department of Social Services submits the last expenditure report for the last quarter of the federal fiscal year to the Department of Health and Human Services.
- .11 Records and supporting documentation shall be retained longer when:
 - .111 They are the subject of an open federal and state audit.
 - .112 They are the subject of a pending civil litigation or when a court orders that such records be retained for an extended period.

Authority Cited: Sections 10554, 11475 and 11479.5, Welfare and Institutions Code.

Reference: 45 CFR Section 303.11(d); 45 CFR Part 74, Subpart D, Sections 74.20, .21(a) and (b) and .22(a); and Section 11479.5, Welfare and Institutions Code.

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

FILED
In the office of the Secretary of State
of the State of California

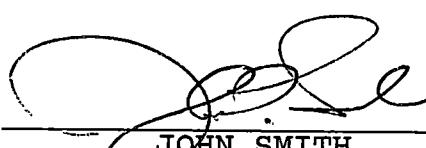
SEP 24 1990

449 o'clock P.M.
MARCH FOURTEEN, Secretary of State
By Michael J. Williams
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the City of Sacramento, State of California.

Submitting Agency: Social Services

OAL File No: 90-0914-01


JOHN SMITH
CHIEF COUNSEL

09/24/90

**EMERGENCY
NOTICE PUBLICATION/REGULATIONS SUBMISSION**

STD. 400 (REV. 7-90)

(See Instructions on reverse)

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER	PREVIOUS REGULATORY ACTION NUMBER
			90-0920-018	

For use by Office of Administrative Law (OAL) only

1990 SEP 20 PM 3:14

OFFICE OF
ADMINISTRATIVE LAWENDORSED
APPROVED FOR FILING
SEP 27 1990

Office of Administrative Law

NOTICE

REGULATIONS

AGENCY

State Department of Social Services

AGENCY FILE NUMBER (if any)

#0590-19

In the office of the Secretary of State
of the State of California

SEP 27 1990

At 332 P.M.

MARCH FILING EU, Office of State

By Michael L. Williams
Deputy Secretary of State**A. PUBLICATION OF NOTICE** (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified	<input type="checkbox"/> Disapproved/ Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

SECTIONS AFFECTED	ADOPT	42-750.7
	AMEND	22-022.5, 42-786.41, and 42-787.13
TITLE(S) MPP	REPEAL	

2. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code, § 11346)	<input type="checkbox"/> Resubmittal	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)	<input checked="" type="checkbox"/> Emergency (Gov. Code, § 11346.1(b))
<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.			

 Print Only Other (specify) _____

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

Not Applicable

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

<input type="checkbox"/> Effective 30th day after filing with Secretary of State	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> Effective other (Specify) (10-01-90)
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5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
--	--	---

 Other (Specify) _____

6. CONTACT PERSON

Rosalie Clark, Chief, Regulations Development Bureau

TELEPHONE NUMBER

(916) 445-0313

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

TYPED NAME AND TITLE OF SIGNATORY

Linda S. McMahon, Director

DATE

9-14-90

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 7-90) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the agency name and agency file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

DELEGATED AUTHORITY ORDER

I hereby authorize and designate the following individuals as the agency contact persons who have authority, during the Office of Administrative Law review period, to make decisions and answer questions regarding regulations adopted by the Department of Social Services.

Rosalie P. Clark, Chief
Regulations Development Bureau

James Rhoads, Assistant Chief
Regulations Development Bureau

This designation shall be effective on 8-26-88, 1988 and shall remain in effect until superseded or cancelled.

Linda S. McMahon

Linda S. McMahon
Director

8-26-88
Date

Amend Section 22-022.5 to read:

22-022 TIMELY NOTICE - AID PENDING HEARING (Continued) 22-022

.5 Except as provided in Sections 22-054.1, 22-022.6, 22-023.122, and 41-440.12(i), when the claimant files a request for a state hearing prior to the effective date of the notice of action which is subject to Section 22-022.1, aid shall be continued in the amount that the claimant would have been paid if the proposed action were not to be taken, provided the claimant does not voluntarily and knowingly waive aid. This section shall not apply to Greater Avenues for Independence (GAIN) supportive services payments (see Section 42-750.7). In the Food Stamp Program, benefits shall be continued on the basis authorized immediately prior to the notice of adverse action. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 255.2(h)(2).

Adopt Section 42-750.7 to read:

42-750 SUPPORTIVE SERVICES (Continued)

42-750

.7 When a participant requests a hearing within the period of timely notification (see Section 22-022.5) to appeal a suspension, reduction or termination of GAIN supportive services or a change in the method of providing such services, the participant shall not be entitled to a continuation of GAIN supportive services in the same amount or form pending the hearing decision. The participant shall be entitled to supportive services only at the level and in the form authorized by the county action under appeal.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 255.2(h)(2).

Amend Section 42-786.41 to read:

42-786 GAIN FINANCIAL SANCTIONS (Continued)

42-786

.4 The discontinuance from aid shall become effective at the end of the month following the CWD's timely and adequate notification (see Section 22-022.1), except as specified in Sections 42-786.41 and 42-787.61 below:

.41 If the recipient appeals the sanction through the state hearing process within the period of timely notification, no sanction shall be imposed until the hearing decision is reached. However, pending the hearing decision, GAIN supportive services shall be available to the recipient only at the level and in the form authorized by the county action under appeal. (see Section 42-750.7). (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 255.2(h)(2).

Amend Section 42-787.13 to read:

42-787 GAIN STATE HEARING AND FORMAL GRIEVANCE
(Continued)

42-787

.1 State Hearing (Continued)

.13 With the exception of GAIN supportive services (see Section 42-750.7), aid will continue if the individual appeals through the state hearing process within the period of timely notification (see Section 42-786.41).

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 255.2(h)(2).

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

In the office of the Secretary of State
of the State of California

SEP 27 1990

332
MARCH FILING EU
Michael J. Williams
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the City of Sacramento, State of California.

Submitting Agency: Social Services

OAL File No: 90-0920-04


JOHN SMITH
CHIEF COUNSEL

09/27/90